

Having carefully considering the contentions in the motion, it appears that petitioner has misread the holding in Johnson, which dealt with sentencing *enhancements* under the Armed Career Criminal Act. Petitioner argues that Johnson should be read to defeat the definition of “crime of violence” found in 18 U.S.C. § 16, arguing that this court should hold that provision to be “unconstitutionally vague.” That definition, however, has absolutely nothing to do with the petitioner’s offense of conviction, to wit, Conspiracy to Possess with Intent to Distribute Cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 846, or the sentence imposed on that conviction. Thus, neither petitioner’s conviction, his sentence, nor any enhancement to his sentence was in any way dependent upon a previous conviction of a crime of violence.

Clearly, the brief petitioner has included within the body of his motion has been cut and pasted from someone else’s petition as it bears absolutely no relationship to the offense or the sentence in this case. The definition of “crime of violence” found in § 16 has absolutely nothing to do with the sentence this court imposed in this case as petitioner’s sentence was driven by Chapter Two of the Sentencing Guidelines, which took into account petitioner’s conviction for a drug offense and possession of guns during that offense, not Chapter Four, which deals with enhancements and changes to criminal history category or scores, career offender status, or criminal livelihood determinations.

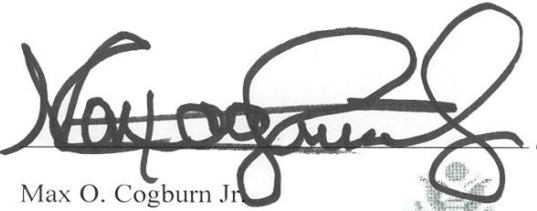
In his prayer for relief, petitioner asks this court to “[v]acate any enhancement that raised my sentence for a gun.” Motion (#1) at 18. While petitioner clearly received a two-level enhancement for being in possession of firearms at the time of the drug offense, Johnson provides absolutely no avenue for relief. More importantly, at least as to petitioner’s claim, the sentence imposed was in no manner reliant on the definition of “Crime of Violence” found in § 16. As

petitioner has failed to state a colorable claim for relief under 28 U.S.C. § 2255, the court will dismiss the petition.

ORDER

IT IS, THEREFORE, ORDERED that the Motion to Vacate, Set Aside, or Correct Sentence (#1) is **DISMISSED** for failure to state a colorable claim for relief.

Signed: September 6, 2016



Max O. Cogburn Jr.
United States District Judge

